

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**LOCAL 560, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS
Charged Party/Respondent**

Case No: 22-CC-01522

And

**COUNTY CONCRETE CORPORATION,
Charging Party/Employer,**

COUNTY CONCRETE CORPORATION'S MOTION TO INTERVENE

Pursuant to Section 102.65 of the National Labor Relations Board's Rules and Regulations, County Concrete Corporation ("County"), as Charging Party and thereby a party in interest in the above captioned matter, respectfully moves to intervene to supplement the Acting General Counsel's Motion for Summary Default Judgment against Teamsters Local 560 ("Local 560") and to specifically request that the Board issue a broad remedial Order. In support of its Motion, County states as follows:

I. Factual Background

On November 12, 2010, County filed its first unfair labor practice charge against Local 560 with Region 22 of the National Labor Relations Board, alleging violations of Section 8(b)(4)(ii)(B) of the Act, after Local 560 threatened four neutral employers with picketing at their respective jobsites with the object of forcing or requiring those neutral employers to cease doing business with County. (Charge No. 22-CC-001522). Region 22 found merit in County's assertion that Local 560's repeated threats to picket any wall

to wall union project if a contractor used County as its ready mix supplier violated the Act, despite Local 560's claim that its campaign against County was a lawful "area standards" protest. Region 22 thereupon informed Local 560 that a complaint would be issued. Local 560 avoided the issuance of the complaint by immediately entering into an Informal Settlement Agreement on March 31, 2011, which required Local 560 to consent to the entry of a default judgment against Local 560 in the case of noncompliance. The Informal Settlement Agreement also included detailed findings of the unlawful secondary threats of picketing Local 560 made to the four employers listed in the Charge, specifically Torcon Construction Co., Century 21 Construction Co., Terminal Construction Co., and J. Fletcher Creamer and Sons, Inc. On June 28, 2011, Region 22 served a letter upon Local 560 and County stating that Case No. 22-CC-001522 was being closed, conditioned upon Local 560's continued compliance with the Informal Settlement Agreement's terms and conditions.

However, in November 2011, Local 560 illegally threatened Sharp Concrete Company ("Sharp") and succeeded in having County removed from the St. Peter's College project. County filed its second unfair labor practice charge against Local 560 on November 3, 2011 based upon its threats to Sharp. (Charge Nos. 22-CC-068160). Then, in December 2011, Local 560 made similar threats to Macedos Construction, LLC ("Macedos") when Macedos contracted to use County as its ready mix supplier on the Novartis project. When Macedos refused to terminate its relationship with County, Local 560 followed through with its threat by picketing the Novartis project for several weeks. County filed another unfair labor practice against Local 560 in January 2012 based upon its threats to Macedos. (Charge No. 22-CC-071865). Region 22 eventually found

merit in both charges, and revoked the prior Informal Settlement Agreement due to Local 560's noncompliance with its continuing obligation to cease its unlawfully threatening neutral employers.

Regional Director J. Michael Lightner issued a Consolidated Complaint against Teamsters Local 560 for Case Nos. 22-CC-001522, 22-CC-068160, and 22-CC-071865 on April 26, 2012. Administrative Law Judge Lauren Esposito held a one day hearing on June 13, 2012. At the hearing, General Counsel and County jointly presented overwhelming evidence of Local 560's pervasive and unlawful statewide secondary campaign targeting any neutral employer who attempted to use County as its ready mix supplier. General Counsel also submitted a Motion for Summary Default Judgment to the ALJ, requesting that the section 8(b)(4)(ii)(B) violations attributed to Case No. 22-CC-001522 be severed from the hearing and transferred to the National Labor Relations Board ("Board") for further proceedings upon determination that Local 560 violated the Act in Case Nos. 22-CC-068160 and 22-CC-071865. By a decision issued on February 15, 2013, the ALJ found that direct and independent evidence was presented proving that Local 560 unlawfully threatened Sharp and Macedos with picketing in order to force Sharp and Macedos to cease doing business with County. As part of the February 15, 2013 decision, the ALJ also granted General Counsel's Motion to Transfer Case No. 22-CC-001522 to the Board for Summary Default Proceedings.

County now seeks to intervene in Case No 22-CC-001522 in order to supplement the General Counsel's Motion for Summary Default Judgment and request that the Board issue a broad remedial Order.

II. Argument

The General Counsel properly concluded that Local 560 defaulted under the terms of the Informal Settlement Agreement, and properly requested that the Board make findings of fact and conclusions of law consistent with the allegations in the Consolidated Complaint relating to Case No. 22-CC-001522. The General Counsel also appropriately requested that the Board award a default judgment and issue an Order “*consistent with the terms of the Informal Settlement Agreement and the Notice to Employees attached to the Agreement.*” However, the General Counsel failed to attach the aforementioned Notice to Employees that corresponds with the Informal Settlement Agreement, leaving the General Counsel’s recommended Order ambiguous with respect to the scope of the Order.

Given this ambiguity, County has attached as **Exhibit A**, a true and correct copy of the Informal Settlement Agreement and the corresponding Notice to Employees to supplement the General Counsel’s Motion for Summary Default Judgment. The Notice to Employees states:

WE WILL NOT, threaten to picket Torcon Construction Co., Century 21 Construction Co., Crisdel Construction Group, J. Fletcher Creamer and Sons, Inc., Terminal Construction Co., **or any other employer**, where an object thereof is to force or require Torcon Construction Co., Century 21 Construction Co., Crisdel Construction Group, J. Fletcher Creamer and Sons, Inc., Terminal Construction Co., **or any other employer**, to cease doing business with County Concrete. [emphasis added].

The Region patterned the above quoted Notice to Employees after broad remedial Orders issued by the Board for similar section 8(b)(4)(ii)(B) violations. Moreover, a broad order is clearly warranted in this case, prohibiting Local 560 and its

representatives from engaging in any form of illegal secondary activity against anyone with whom County does business or hopes to do business, or any other person engaged in commerce.

Local 560's repeated and blatant disregard for the Act's secondary boycott prohibitions prove that they will continue to coerce and/or restrain neutral employers in order to accomplish their unlawful objective unless and until ordered to cease and desist by the Board. See Sheet Metal Workers Local 28 (Astoria Mechanical Corp.), 323 NLRB No. 21(NLRB 1997) (The Board issued a broad remedial order against the respondent, prohibiting respondent from in any manner, threatening, coercing or restraining Astoria Mechanical Corporation or any other person where an object thereof is to force or require Astoria **or any other person** to cease doing business with **any other person**. The Board considered the broad order necessary because the respondent had demonstrated a proclivity to violate section 8(b)(4) by engaging in three separate violations of that section within a 21 month period.); Iron Workers Local 378 (N.E. Carlson Construction), 302 NLRB 200 (1991) (The Board justified the issuance of a broad remedial order by noting that less than one year after engaging in an illegal secondary boycott, the respondent repeated its unlawful conduct at yet another site and involving still more employer targets. The Board concluded that in such circumstances, a narrow order confined to the employers involved on those projects would not sufficiently deter further misconduct.). See also Service Employees Local 87 (Trinity Maintenance), 312 NLRB 715 (1993); Iron Workers Local 433 (United Steel), 293 NLRB 621 (1989); Operating Engineers Local 12 (Associated Engineers), 270 NLRB 1172 (1984); Hickmott Foods, 242 NLRB 1357 (NLRB 1979).

With this clarification to the General Counsel's Motion for Summary Default, County supports the General Counsel's recommendation that the Board enters a broad cease and desist Order against Local 560.

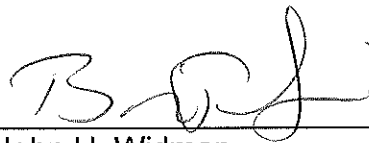
III. Conclusion

For all the reasons set forth above, County Concrete Corporation should be allowed to intervene in the Summary Default Proceedings for Case No. 22-CC-001522 in order to supplement General Counsel's Motion for Summary Default Judgment and request that the Board issue a broad remedial Order against Teamsters Local 560.

Respectfully submitted,

SUSANIN, WIDMAN & BRENNAN, P.C.

Date: 3/14/13



John H. Widman
Brian P. Shire
1285 Drummers Lane, Suite 202
Wayne, PA 19087
(610) 710-4510
(610) 710-4520 (f)

Attorneys for Charging Party

EXHIBIT A



United States Government

NATIONAL LABOR RELATIONS BOARD
REGION 22

20 Washington Place - 5th Floor
Newark, NJ 07102-3115
(973) 645-2100
(973) 645-3852 Fax

SUSANIN, WIDMAN &
BRENNAN, P.C.

MAR 3 2011

FILE NO. _____

February 28, 2011

John Widman, Esq
Susanin, Widman & Brennan, PC
1285 Drummers Lane, Suite 202
Wayne, PA 19087

Re: Local 560, Teamsters (County Concrete)
Case 22-CC-1522

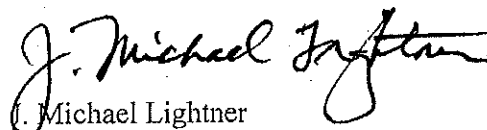
Dear Mr. Widman,

Your client, County Concrete, filed the above referenced unfair labor practice charge against the Union, Local 560, Teamsters, herein Local 560, alleging certain violations of Section 8(b)(4)(i)(ii)(B) of the National Labor Relations Act, as amended.

Thereafter, on February 28, 2010, Local 560 executed the attached Settlement Agreement. This Settlement Agreement appears to provide a complete remedy to the alleged unfair labor practices involved herein. Thus, should you desire to participate in the settlement, please sign it and return it to me promptly.

If you have any objections to the Agreement, any such objections, together with supporting evidence, should be submitted to me, in writing, within 7 days of your receipt of this letter. Such objections, if any, will be carefully considered prior to my taking final action with respect to the Agreement.

Very truly yours,


J. Michael Lightner
Regional Director

Enclosure

cc: Paul Montalbano, Esq.
Cohen, Leder, Montalbano & Grossman, LLC
1700 Galloping Hill Road
Kenilworth, NJ 07033

John Widman, Esq.
County Concrete Corporation
50 Railroad Avenue
Kenvil, NJ 07847

Anthony Valdner
Local 560, Teamsters
707 Summit Avenue
Union City, NJ 07087

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF Local 560, International Brotherhood of Teamsters Case 22-CC-1522

The undersigned Charged Party and the undersigned Charging Party, in settlement of the above matter, and subject to the approval of the Regional Director for the National Labor Relations Board, HEREBY AGREE AS FOLLOWS:

POSTING OF NOTICE — Upon approval of this Agreement and receipt of the Notices from the Region, which may include Notices in more than one language as deemed appropriate by the Regional Director, the Charged Party will post immediately in conspicuous places in and about its plant/office, including all places where notices to employees/members are customarily posted, and maintain for 60 consecutive days from the date of posting, copies of the attached Notice (and versions in other languages as deemed appropriate by the Regional Director) made a part hereof, said Notices to be signed by a responsible official of the Charged Party and the date of actual posting to be shown thereon. In the event this Agreement is in settlement of a charge against a union, the union will submit forthwith signed copies of said Notice to the Regional Director who will forward them to the employer whose employees are involved herein, for posting, the employer willing, in conspicuous places in and about the employer's plant where they shall be maintained for 60 consecutive days from the date of posting. Further, in the event that the charged union maintains such bulletin boards at the facility of the employer where the alleged unfair labor practices occurred, the union shall also post Notices on each such bulletin board during the posting period.

In addition to physical posting of paper notices, notices shall be distributed electronically, such as by e-mail, posting on an intranet or an internet site, or other electronic means, if the Charged Party customarily communicates with its employees or members by such means. The electronic posting shall remain posted for 60 consecutive days from the date it was originally posted. The Charged Party will e-mail the Region's Compliance Officer at collette.sarro@nrlrb.gov with a link to the electronic posting location on the same day as the posting. In the event that passwords or other log-on information is required to access the electronic posting, the Charged Party agrees to provide such access information to the Region's Compliance Officer. If the Notice is distributed via e-mail, the charged party will forward a copy of the e-mail distributed to the Regional Compliance Officer.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

SCOPE OF THE AGREEMENT — This Agreement settles only the following allegations in the above-captioned case(s), and does not constitute a settlement of any other case(s) or matters: 8(b)(4)(i)(ii)(B) allegations of secondary threats and picketing directed at neutral employers with an object of having those employers cease doing business with County Concrete, Inc.

It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters which precede the date of the approval of this Agreement regardless of whether such matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

NON-ADMISSIONS---By executing this Agreement the Charged Party does not admit that it has violated any provision of the National Labor Relations Act, as amended. Charged Party's agreement to the Performance procedures, which includes a provision that in the event of a proven default of this Settlement Agreement the allegations in the Complaint will be deemed admitted, and the matter will proceed through uncontested summary judgment, entry of Board Order, and Court Judgment, this being without testimony having been taken, shall be recognized as equivalent to a plea of *nolo contendere*, and shall not negate the terms of the Non-Admissions provision.

REFUSAL TO ISSUE COMPLAINT — In the event the Charging Party fails or refuses to become a party to this Agreement, and if in the Regional Director's discretion it will effectuate the policies of the National Labor Relations Act, the Regional Director shall decline to issue a Complaint herein (or a new Complaint if one has been withdrawn pursuant to the terms of this Agreement), and this Agreement shall be between the Charged Party and the undersigned Regional Director. A review of such action may be obtained pursuant to Section 102.19 of the Rules and Regulations of the Board if a request for same is filed within 14 days thereof. This Agreement shall be null and void if the General Counsel does not sustain the Regional Director's action in the event of a review. Approval of this Agreement by the Regional Director shall constitute withdrawal of any Complaint(s) and Notice of Hearing heretofore issued in the above captioned case(s), as well as any answer(s) filed in response.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY. Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes *CSH* No _____
Initials Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

Rider

Should a Complaint be Issued, it would allege:

1. The Charge in this proceeding was filed by the Employer, County Concrete, Inc., on November 11, 2010, and a copy thereof was served on the Union, Local 560, International Brotherhood of Teamsters, on November 16, 2010.
2. The Employer, a corporation with its main office and place of business in Kenil, New Jersey, called the Kenil facility, and various other facilities in the State of New Jersey, has been engaged in the provision of ready-mix concrete.
3. During the preceding 12 months, the Employer, in conducting its business operation described above, purchased and received at its various New Jersey facilities, goods valued in excess of \$50,000 directly from points outside the State of New Jersey.
4. At all material times, the Employer has been engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.
5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.
6. At all material times, the following individuals have held the positions set forth opposite their respective names and have been agents of the Union within the meaning of Section 2(13) of the Act.
Anthony Valdner – President
Joseph DiLeo – Business Agent
7. (a) At all material times, the Union has been engaged in a labor dispute with the Employer.
(b) At no material time has the Union been engaged in a labor dispute with Torcon Construction Co., Century 21 Construction Co., J Fletcher Creamer and Sons, Inc., and Terminal Construction Co.
8. About May 24, 2010 and May 27, 2010, the Union, in support of its dispute with the Employer described above in paragraph 7(a), by Joseph DiLeo, threatened Torcon Construction Co. with picketing of its jobsite.
9. About July 15, 2010 and July 22, 2010, the Union, in support of its dispute with the Employer described above in paragraph 7(a), by Joseph DiLeo, threatened Century 21 Construction Co. with picketing of its jobsite.
10. About September, 2010, the Union, in support of its dispute with the Employer described above in paragraph 7(a), by Tony Valdner, threatened J Fletcher Creamer and Sons, Inc. with picketing of its jobsite.
11. About July, 2010, the Union, in support of its dispute with the Employer described above in paragraph 7(a), by Joseph DiLeo, threatened Terminal Construction Co. with picketing of its jobsite.
12. By the conduct described above in paragraphs 8 through 12, the Union has induced or encouraged individuals employed by Torcon Construction Co., Century 21 Construction Co., J Fletcher Creamer and Sons, Inc., and Terminal Construction Co., and other persons engaged in commerce or in an industry affecting commerce to refuse to handle or work on goods or refuse to perform

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will issue the complaint on the allegations spelled out above in the Scope of Agreement section. Thereafter, the General Counsel may file a motion for summary judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that all of the allegations of the aforementioned complaint will be deemed admitted and it will have waived its right to file an Answer to such complaint. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party, on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is customary to remedy such violations. The parties further agree that the U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte.

NOTIFICATION OF COMPLIANCE — The undersigned parties to this Agreement will each notify the Regional Director in writing what steps the Charged Party has taken to comply herewith. Such notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. In the event the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that no review has been requested or that the General Counsel has sustained the Regional Director. Contingent upon compliance with the terms and provisions hereof, no further action shall be taken in the above captioned case(s).

Charged Party <i>Bernard Mintz</i>	Local 560, International Brotherhood of Teamsters	Charging Party	County Concrete, Inc.
By: Name and Title <i>PAUL MINTZ</i> <i>Atty</i>	Date <i>2/28/2011</i>	By Name and Title	Date
Recommended By: Bernard Mintz Board Agent	Date <i>2/28/11</i> <i>Bernard Mintz</i>	Approved By: Regional Director	Date

services and has threatened, coerced or restrained Torcon Construction Co., Century 21 Construction Co., J Fletcher Creamer and Sons, Inc., and Terminal Construction Co., and other persons engaged in commerce or in industries affecting commerce.

13. An object of the Union's conduct described above in paragraphs 8 through 13 has been to force or require Torcon Construction Co., Century 21 Construction Co., J Fletcher Creamer and Sons, Inc., and Terminal Construction Co., and other persons to cease handling or otherwise dealing in the products of, and to cease doing business with County Concrete

2/28/2011

WE WILL NOT threaten to picket **Torcon Construction Co., Century 21 Construction Co., Crisdel Construction Group, J Fletcher Creamer and Sons, Inc., Terminal Construction Co.,** or any other employer, where an object thereof is to force or require **Torcon Construction Co., Century 21 Construction Co., Crisdel Construction Group, J Fletcher Creamer and Sons, Terminal Construction Co.,** or any other employer, to cease doing business with County Concrete.

Local 560, International Brotherhood of Teamsters
(Union)

Dated: _____

By: AM 2/28/2011
(Representative) (Title)



NOTICE TO EMPLOYEES AND MEMBERS

POSTED PURSUANT TO A SETTLEMENT AGREEMENT
APPROVED BY A REGIONAL DIRECTOR OF THE
NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join or assist a union;
- Choose representatives to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected, concerted activities.

WE WILL NOT threaten to picket Torcon Construction Co., Century 21 Construction Co., J Fletcher Creamer and Sons, Inc., Terminal Construction Co., or any other employer, where an object thereof is to force or require Torcon Construction Co., Century 21 Construction Co., J Fletcher Creamer and Sons, Terminal Construction Co., or any other employer, to cease doing business with County Concrete.

**INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 560**
(UNION)

Dated: 4-26-11 By: *Anthony M. Patek* Pres.
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov and the toll-free number (888) 667-NLRB (6572).

Veteran's Adm. Building, NLRB, 20 Washington Place, 5th Floor, Newark, NJ 07102-3115 Tel. (973) 645-2100.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**LOCAL 560, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**
Charged Party/Respondent

Case No: 22-CC-01522
22-CC 068160
22-CC-071865

And

COUNTY CONCRETE CORPORATION,
Charging Party/Employer,

CERTIFICATION OF FILING AND SERVICE

I, Brian P. Shire, certify that on this date I caused the Charging Party's Motion to Intervene to be filed electronically with the National Labor Relations Board. I further certify that I caused copies of the foregoing to be served upon the following persons via electronic mail, in accordance with the rules of the National Labor Relations Board:

Laura Elrashedy
National Labor Relations Board
Region 22
20 Washington Place, 5th Floor
Newark, NJ 07102-3110
Laura.Elrashedy@nlr.gov
General Counsel

Paul A. Montalbano, Esquire
Cohen, Leder, Montalbano & Grossman, LLC
1700 Galloping Hill Road
Kenilworth, NJ 07033
montalbanoemail@yahoo.com
Counsel for Teamsters Local 560

Date: 3/14/13



Brian P. Shire